
Appeal Decision

Site visit made on 21 June 2019

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/C3105/W/19/3225084

OS Parcel 8233, South of Baynards Green Farm, Street to Horwell Farm, Baynards Green OX27 7SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Brunel Securities LLP and The Curtis Family against the decision of Cherwell District Council.
 - The application Ref 18/00672/OUT, dated 17 April 2018, was refused by notice dated 21 September 2018.
 - The development proposed is up to 7161m² of B2 and/ or B8 industrial development with ancillary offices (B1a), access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address above as it appears on the Council's Decision Notice. Although it differs from that contained in the planning application form, it corresponds with the address used in the appellant's appeal form and appeal statement.
3. The planning application was submitted in outline with all matters reserved for later consideration except access and landscaping. I have dealt with the appeal on that basis and treated the layout of the buildings shown on the proposed site plan as indicative.
4. Post determination of the planning application the appellant submitted a revised Transport Assessment and the Highway Authority in a response dated 15 March 2019 confirmed that the proposal would not have a severe impact on the highway network in terms of junction modelling. However, they did maintain an objection in relation to the location of the development. I have determined the appeal on this basis.

Main Issues

5. The main issues are:
 - Whether the site is an appropriate location for employment having regard to national and local policy.

- The effect on the character and appearance of the area, including whether it would preserve or enhance the setting of the barn at SP 5487 2940, a Grade II Listed Building.

Reasons

Location of Development

6. The appeal site is an irregular shaped agricultural field located near to the roundabout between the A43 and B4100 at Baynards Green, approximately 1km from junction 10 of the M40. The site is outside of a settlement in the countryside. The southern edge of the site is bounded by a copse of trees. Trees also line the northern boundary of the site separating it from the trading estate to the north which comprises of small scale commercial uses including a Grade II Listed converted barn. A petrol station and fast food drive thru is located to the south east of the site with the remaining immediate area surrounding the site largely rural in character.
7. Policy SLE 1 of the Cherwell Local Plan 2011-2031 (Local Plan) directs new employment development to locations in accordance with Policy ESD 1 of the Local Plan, distributing growth to locations identified as sustainable. Reflecting the urban focus of the Plan, this primarily involves directing employment development to existing employment sites and the main urban settlements. In rural areas employment development should be located within or on the edge of category A villages identified in Policy Villages 1, unless exceptional circumstances are demonstrated.
8. Policy SLE 1 also sets out a criteria which new employment in rural areas is required to meet. This includes demonstration of why a rural location is required, its benefits and why the development should not be located at towns close to the labour force. Employment development in rural areas is also required to demonstrate that there is no other available land within existing nearby employment areas and that it is small in scale, unless it can be demonstrated that there would be no significant impact on the surrounding environment. It should also not harm the character and appearance of the area.
9. It has been identified that part 2 of the Local Plan has not come forward in the timescale originally planned and the appellant doubts the delivery of the revised timescales. However, whilst part 2 of the Local Plan will consider further employment land provision in the district there is provision within the existing Local Plan to assess employment proposals in rural areas in the interim. In this context I am of the view that there is not a complete policy vacuum, as posited by the appellant. Delay in the delivery of part 2 of the Local Plan does not in this case provide exceptional circumstances to justify the development.
10. The appellant has identified significant demand for commercial units up to 3000 sq m to meet the needs of small-medium enterprises (SMEs) and that there is an under supply of such units coming forward on allocated sites. However, the development proposed has been made on a speculative basis.
11. Whilst the appellant discounted many of the existing allocated sites they are not subject to restrictions on the unit size. The Council has confirmed that it is for the market to decide, alongside any planning constraints, what size units

come forward. I note also that no size restriction on the units that would be located on the site is identified as part of the scheme. It has not been adequately demonstrated that the speculative needs could not be met on the allocated sites, even if as suggested by the appellant that larger format units are more profitable.

12. The appellant says that there are no readily available or deliverable sites within or on the edge of Category A villages to provide smaller format units. However, there is little substantive evidence before me to support this or to qualify the appellant's view that there are doubts about whether such scale of development would be suitable and appropriate in these locations.
13. In addition to allocated sites the appellant provides an assessment of sites identified in the Council's Housing and Economic Land Assessment. I note the constraints of a number of the sites identified by the appellant. However, in the absence of an end user associated with the proposal there is little to substantiate that the identified sites could not meet the needs of a business looking to locate in the area. This is particularly as the Council has identified that businesses are successfully operating from similar units. There is little to support the appellant's claim that SMEs are having to compromise on their requirements due to lack of supply.
14. In the absence of compelling evidence to demonstrate that the current demand and supply of premises risk significantly undermining the stability and growth of SMEs in the local economy as stated by the appellant, this does not provide the exceptional circumstances to justify the development.
15. The appellant has identified that the site is deemed suitable, available and achievable in the Council's Housing and Employment Land Availability Assessment. However, it does not necessarily follow that the site would be allocated in the Local Plan or granted planning permission upon submission of a planning application.
16. The appellant acknowledges that the site is not accessible by non car modes and that there are limited opportunities to improve accessibility as part of the development. Whilst paragraph 84 of the NPPF states to meet local business needs sites may need to be located in locations that are not well served by public transport, given my findings above it has not been adequately demonstrated that in this case it is necessary, even if 35% of the employed population in the District live in rural areas. Similarly, in the absence of adequate evidence, the location of the site close to the strategic highway network is insufficient to justify the location of the proposal.
17. On the evidence before me, the proposal would be sited in an inappropriate location. As such the scheme would conflict with Policies SLE1 and ESD1 of the Local Plan, the provisions of which are identified above.

Character and Appearance

18. Irrespective of the final configuration of the buildings on the site, even if set back from the road, the proposal would lead to an urbanisation of the site with the built development being of a notable scale and bulk given the size of the plot and the amount of floorspace proposed. This is regardless of whether it is deemed large or small in scale.

19. The retention of the existing trees and strengthening of the existing hedgerow would provide some screening. However, the development would still be visible from certain vantage points around the site and when the deciduous trees have lost their leaves. The Landscape Visual Impact Assessment (LVIA) identifies that visual impacts are likely to be experienced some distance from the site, even if some would only be glimpsed views. The sensitive use of materials would do little to mitigate the harm. I consequently disagree with the LVIA that the proposal would not have an unacceptable visual impact.
20. Whilst the roads and neighbouring petrol station and drive-thru have eroded the landscape quality of the area, the harm would be compounded by the development in an area that otherwise has an open character with open fields of which the site forms part. The impact of the surrounding development does not weigh in favour of the proposal and does not justify further exacerbation of the harm. Whilst the landscape may have capacity to accommodate some change, the proposal would make a significant contribution in urbanising the junction to an unacceptable degree. It would not be possible to address this at the reserved matters stage.
21. The proposal would harm the character and appearance of the area and as such would conflict with the parts of Policy ESD13 and ESD15 of the Local Plan which require new development to complement and enhance the existing local character, not cause undue visual intrusion or be inconsistent with local character. It would also conflict with saved Policy C8 of the Cherwell Local Plan 1996 which resists sporadic development in open countryside, including developments in the vicinity of the motorway or major road junctions.

Heritage Asset

22. To the north of the site is a Grade II converted barn which is currently in commercial use. Dating from the late 18th Century, the significance and importance of the building includes its age and form with steeply pitched tile roof and 10 bays with design features that include square ventilation holes and slits. Whilst existing vegetation provides a degree of separation from the site, there will be some impact on the setting of the Listed Building as a consequence of its close proximity. In the context of the other commercial development adjacent to the Listed building, the proposal would cause less than substantial harm.
23. Section 16(20) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be had to the desirability of preserving a Listed Building or its setting or any features of special architectural interest which it possesses. Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.
24. The appellant has identified the creation of 150 jobs as a benefit of the scheme, and this does weigh in favour of the development. However, it is outweighed by the harm I have identified.
25. The proposal would fail to preserve the setting of the Listed Building and would cause less than substantial harm to its significance as a heritage asset. There

would be no public benefits to outweigh this harm and so it would conflict with the NPPF and the part of Policy ESD15 of the Local Plan which requires new development to conserve, sustain and enhance designated heritage assets and their settings.

Other Matters

26. Whilst the appellant has identified the approval of the fast food drive thru in support of their case, I have limited details in which to draw comparisons with the scheme before me. Whilst they do share similarities in terms of job creation, the nature of the development is very different which limits the weight I attach to it. In any event, each case is determined on its own merits and my assessment is based on the information before me.

Conclusion

27. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR